IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE

Civil Writ Petition No.1932 of 2005

Anil Narayan Desai Petitioner

Vs.

State Bank of India & ors. Respondents

Mr.V.S.Gokhale for petitioner.

Mr.A.G.Damle with Mr.V.P.Shintre for Resp.No.1.

CORAM: B.H.MARLAPALLE,J.

June 12, 2006.

P.C.

. Heard Mr.Gokhale, learned counsel for the petitioner who was impleaded as Defendant No.2 in Special Civil Suit No.1188 of 1987. Summons issued to the defendant no.2 were pasted on his office premises i.e. Spectron Sales and Service Pvt. Ltd., 28, Prasad Chamber, Karve Road, Pune and in addition the summons were published in one of the local newspapers on 3/2/1990. The petitioner - defendant no.2 did not appear before the trial Court in the said suit and the suit was finally decided on 19/8/1986. The petitioner filed Misc. Application No.706 of 1997 on 15/3/1997 before the trial Court

purportedly taking support of Order IX Rule 13 of CPC. After hearing both the parties the learned Judge of the trial Court was pleased to reject the application vide his order dated 31/7/2002. The petitioner, therefore, filed an appeal under Order XLIII Rule 1 of CPC before the District Court and the same was registered as Misc. Civil Appeal No. 432 of 2002. The learned 3rd Extra Jt. District Judge at Pune was pleased to dismiss the appeal by his judgment and order dated 30/9/2004 and hence this petition.

. The trial Court was duly satisfied on verification of the record that the summons were pasted on the office premises of the petitioner, the public notice was published in one of the local newspapers on 3/2/1990, the petitioner had an account with the Bank i.e. State Bank of India and he had sufficient knowledge regarding the suit filed by the Bank against the borrower-defendant no.1 and the surety-defendant no.2-petitioner. The lower Appellate Court recorded a concurrent finding and held that the Misc.Application No.706 of 1997 was rightly rejected.

. The concurrent findings recorded by both the Courts below do not call for interference in this petition filed under Article 227 of the Constitution and hence the petition is rejected summarily.

(B.H.MARLAPALLE,J.)